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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,682	12/31/2003	Brian Andrew Phillips	2043.035US2	2158
49845	7590	01/03/2008	EXAMINER	
SCHWEGMAN, LUNDBERG & WOESSNER/EBAY			FADOK, MARK A	
P.O. BOX 2938			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55402			3625	
			NOTIFICATION DATE	DELIVERY MODE
			01/03/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p align="center">10/749,682</p>	<p><b>Applicant(s)</b></p> <p align="center">PHILLIPS ET AL.</p>	
	<p><b>Examiner</b></p> <p align="center">Mark Fadok</p>	<p><b>Art Unit</b></p> <p align="center">3625</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/8/2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 7/9/2007, which was received 10/8/2007. Acknowledgement is made to the amendment to claim 16, leaving claims 16-20 as open to prosecution. Applicant's amendment has been carefully considered and was not found to be persuasive, therefore the previous office action modified as necessitated by amendment follows:

### **Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant's specification provides enablement for a web page being generated that provides for shipping information being automatically entered (gathered) (Applicant's specification, PG PUB 2005/0071244, 0007 and 0045). Applicant's specification does not support that the shipping information is automatically entered by the seller. This gathering process is in regards to the computer system filling out a web page that will be sent to a shipping vendor.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hu (US 2005/0071244).**

**In regards to claim 16**, Hu discloses a system comprising:

a web server (FIG 3); and

an integrated shipping server, linked in communication with the web server (FIG 1),

the web server and integrated shipping server, acting as an intermediary server between a sender and a shipping vendor, comprising

software instructions that when executed enable the sender to arrange for shipment of a package to a recipient via the shipping vendor by performing operations, by the integrated shipping server (FIG 9), including:

generating and serving web pages via which shipping information pertaining to the shipment may be automatically entered by the sender (FIG 12 and col 27, lines 4-30 gathered information is automatically entered into labels and WebPages Figs 12,13,57 and 58); and

interacting with an on-line interface hosted by the shipping vendor to arrange for shipment of the package via the shipping vendor through use of the shipping information (FIG 14 and 15);

receiving shipping data pertaining to the shipment from the shipping vendor,

said shipping data including data corresponding to a shipping label (FIG 25); and

generating and serving a web page via which the shipping label may be printed (FIG 58).

**In regards to claim 17,** Hu a payment server linked in communication with the integrated shipping server and comprising further software instructions that when executed perform the operation of facilitating payment for the shipment from the seller to the shipping vendor (FIG 49).

**In regards to claim 18,** Hu wherein the system is configured to be operable by a third-party payment service for which the seller has an account, and facilitating payment of the shipment comprises:

providing payment from the third-party service to the shipping vendor; and deducting a shipping cost of the shipment from the seller's third-party payment service account (FIG 48).

**In regards to claim 19,** Hu wherein payment from the third-party service to the shipping vendor is facilitated via interaction between the payment server and a debit/credit card authorization/settlement network (FIG 49).

**In regards to claim 20,** Hu teaches payment by credit card, but does not specifically mention that the payment is made via a virtual debit card. The

examiner takes official notice that the creation of a virtual credit card for use in payment for products or services was old and well known in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include in Hurwitz the generation of a virtual credit card, because this would be an efficient means for securing payment without the use of a personal credit card.

### ***Response to Arguments***

Applicant's arguments filed 10/5/2007 have been fully considered but they are not persuasive. Applicant argues that Hu does not teach information being automatically gathered/entered in a webpage. The examiner disagrees and directs the applicant's attention to col 27, lines 4-30 and Figs 57 and 58 where shipping information previously entered by the shipper during registration is automatically gathered and placed in the webpage to provide information to the buyer, shipper and shipping carrier.

### ***Official Notice Traversal***

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to

interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

#### **Conclusion**

This is an RCE of applicant's earlier provided claims received 4/2/2007. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

Alexandria, Va. 22313-1450  
or faxed to:

**571-273-8300**

[Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached  
at 571.272.3600

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Mark Fadok  
Primary Examiner